

OWENS CORNING SALES, LLC ,)
a Delaware Limited Liability Company,)
and OWENS CORNING MINERAL)
WOOL, LLC, a Delaware Limited)
Liability Company,)
))
Plaintiffs,) **Case No.**
))
v.)
))
AREA IMPIANTI S.p.A.,)
))
Defendant.)

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1441 and 1446, Area Impianti S.p.A., (“Defendant”) hereby files this Notice of Removal from the Circuit Court of Greene County, Missouri to the United States District Court for the Western District of Missouri, Southern Division. The grounds for removal are as follows.

1. The removed case is a civil action filed on or about December 26, 2017 in the Circuit Court of Greene County, Missouri, having been assigned Case No. 1731-CC01670, and styled *Owens Corning Sales, LLC, a Delaware Limited Liability Company., et al. v. Area Impianti S.p.A. Corp.* [sic]. This Court has jurisdiction over this action under 28 U.S.C. §§ 1332(a) and 1441(a) and (b).

2. As required by 28 U.S.C. § 1446(a), copies of all process, pleadings, orders and other papers or exhibits served on Defendant are attached as Exhibit A.

THE REMOVAL IS TIMELY

3. Plaintiffs commenced this action on or about December 26, 2017. Defendant received service of process on January 3, 2018. Therefore, this Notice of Removal is timely filed. *See* Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc., 526 U.S. 344, 347-48 (1999) (Thirty-day deadline for removal “is triggered by simultaneous service of the summons and complaint, or receipt of the complaint, ‘through service or otherwise,’ after and apart from service of the summons, but not by mere receipt of the complaint unattended by any formal service”); *see also* Brown v. Tokio Marine & Fire Ins. Co., 284 F.3d 871, 873 (8th Cir. 2002) (“The law is settled in this Circuit that the thirty-day period to file a notice of removal runs from the time that a defendant is served with the complaint, even when the defendant is a later-served defendant[.]”).

CONSENT TO REMOVAL

4. Defendant, the sole named Defendant in this case, by this pleading consents to this Notice of Removal. *See* 28 U.S.C.A. § 1446(b)(2)(A).

THE VENUE REQUIREMENT IS MET

5. Venue of this removal is proper under 28 U.S.C. § 1441(a) because the Circuit Court of Greene County, Missouri is located within the Western District of Missouri.

FEDERAL JURISDICTION EXISTS

6. “The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between ... *citizens of a State* and *citizens or subjects of a foreign state*.” 28 U.S.C. § 1332(a)(2). “As is apparent from the wording of this provision, the federal district courts have jurisdiction of cases, such as the instant action, in which a citizen of a particular state in this country is on one side of the dispute and an alien is on the other side.” *Trans World Hosp. Supplies Ltd. v. Hosp. Corp. of Am.*, 542 F. Supp. 869, 871 (M.D. Tenn. 1982).

A. Amount in Controversy

7. Plaintiffs seek damages in excess of three million dollars (\$3,000,000.00). *See, e.g.,* Petition, ¶¶ 30 and 43. Plaintiffs have not included a binding stipulation with their petition

stating that they will not seek damages greater than the jurisdictional minimum. *See Bell v. Hershey Co.*, 557 F.3d 953, 958 (8th Cir. 2009).

B. Diversity of Citizenship.

8. According to Plaintiffs' pleading, Plaintiffs are Delaware LLCs. *See Petition*, ¶¶ 2.
9. Defendant is an Italian company, organized and existing with its principal place of business in Italy. *See Petition*, ¶¶ 4.
10. There is, therefore, complete diversity in this case between Plaintiffs and Defendant.

FILING OF REMOVAL PAPERS

11. Pursuant to 28 U.S.C. § 1446(d), written notice of the removal of this action will be promptly served to Plaintiffs' counsel, and a Notice of Filing of the Notice of Removal is simultaneously being filed with the Clerk of the Greene County Circuit Court. True and correct copies of these pleadings are attached hereto as Exhibit B.

WHEREFORE, Defendant hereby removes the above-captioned action from the Circuit Court of Greene County, Missouri, and requests that further proceedings be conducted in this Court as provided by law.

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

Undersigned counsel certifies that this original document was signed by the preparing attorney and will be maintained by the filer for a period not less than the maximum allowable time to complete the appellate process.

Defendant, by and through the undersigned counsel, certifies that a true copy of the above document was served via ☐ U.S. Mail, postage prepaid, ☐ facsimile, ☐ electronic notification, ☒ e-mail, and/or ☐ hand delivery, this 2nd day of February, 2018, upon:

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Attorney